

75-5-202.5. Appointment of guardian by written instrument.

(1) The parent of an unemancipated minor may appoint a guardian by written instrument designating the guardian. An appointment by written instrument becomes effective where:

(a) the written instrument is filed with the petition for appointment of guardian in the court having probate jurisdiction in the county of residence of the last parent to die, if death occurred in the state, and otherwise in the court having probate jurisdiction in the county in which the minor resides in the state; and

(b) the person appointed as guardian filed in the court having jurisdiction an affidavit of acceptance which states:

- (i) the name, address, and age, or birthday if known, of the minor;
- (ii) the name, address, and telephone number of the appointee-guardian;
- (iii) the names of the parents of the minor and that both are dead or that any surviving parent has been adjudged incapacitated;
- (iv) the name of the parent who was last to die and the county where that parent resided at the date of his death;
- (v) that the appointee-guardian knows of no other appointment of a guardian which supersedes the appointment by written instrument;
- (vi) that the appointee-guardian accepts the appointment.

(2) The latest document appointing a guardian, whether will or written instrument, which is executed by the last parent to die has priority.

(3) Upon acceptance of an appointment, written notice of acceptance shall be given by the guardian to the minor, if he is 14 years of age or older, and to the person having his care or to his nearest adult relative.

(4) For purposes of this chapter, "instrumental" refers to a written instrument as described in this section.

Enacted by Chapter 41, 1985 General Session